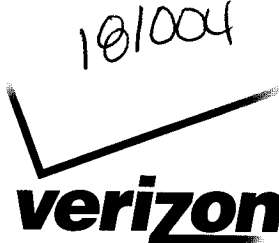


Public Policy and External Affairs



1301 Gervais Street, Suite 825  
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Phone 803 254-5736  
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July 27, 2006

**Via Hand Delivery**

The Honorable Charles L. A. Terreni  
Chief Clerk and Administrator  
The Public Service Commission of S.C.  
P. O. Drawer 11649  
Columbia, S.C. 29211

RE: **Docket No. 2006-37-C/Petition of the Office of Regulatory Staff for a Rule-Making Proceeding to Examine the Requirements and Standards to Be Used by the Commission When Evaluating Applications for Eligible Telecommunications Carrier ("ETC") Status and When Making Annual Certification of ETC Compliance to the Federal Communications Commission**


Dear Mr. Terreni:

Enclosed for filing are an original and one copy of Verizon South Inc.'s (hereinafter, "Verizon's") Comments in response to the Office of Regulatory Staff's (hereinafter, "ORS") Petition in the above referenced docket.

By copy of this letter, I am serving all parties of record with a copy of the Comments as indicated on the attached Certificate of Service.

If you should have any questions concerning this matter please contact my office.

With kind personal regards, I am



Amber L. Landsman

Enclosures

cc: Ms. Nanette S. Edwards, Esquire (ORS)

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

**DOCKET NO. 2006-37-C**

**IN RE:**

<b>Petition of the Office of Regulatory Staff for</b>	)	
<b>a Rule-Making Proceeding to Examine the</b>	)	<b>COMMENTS OF VERIZON SOUTH INC.</b>
<b>Requirements and Standards to Be Used by</b>	)	
<b>the Commission When Evaluating Applications</b>	)	
<b>for Eligible Telecommunications Carrier (ETC)</b>	)	
<b>Status and When Making Annual Certification</b>	)	
<b>of ETC Compliance to the Federal</b>	)	
<b>Communications Commission</b>	)	

**VERIZON COMMENTS REGARDING ETC REQUIREMENTS AND STANDARDS**

Pursuant to the South Carolina Public Service Commission's ("Commission") May 9, 2006 Notice of Drafting in this docket, Verizon South Inc. ("Verizon") provides the following comments addressing whether the Commission should adopt the FCC's recently amended eligible telecommunications carrier ("ETC") standards and requirements<sup>1</sup> in determining whether to grant ETC status to an applying carrier.

**I. INTRODUCTION**

Verizon was designated by the Commission as an ETC for its service area in Order No. 97-958, on November 24, 1997 – and has held that status continuously since then. It would not be appropriate to impose new regulatory burdens on Verizon merely because of the continuation of that status. As a wireline incumbent local exchange carrier ("LEC"), Verizon is already subject to consumer protection and service quality standards and to numerous financial reporting requirements established by the Commission. This puts Verizon in a fundamentally different

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<sup>1</sup> Report and Order, *In the Matter of Federal-State Joint Board on Universal Service*; CC Docket No. 96-45; FCC 05-46 (rel. March 17, 2005) ("*ETC Order*").

situation from a non-incumbent wireline ETC, such as Budget Phone, Inc., or a wireless carrier, that is not already subject to these detailed requirements. This Commission is well informed about the operations of incumbent local telecommunications carriers and its regulation and oversight already fulfills the functions and goals associated with ETC monitoring. Accordingly, Verizon urges the Commission to not impose new, more burdensome requirements upon incumbent LECs that are also ETCs in order to maintain their ETC status. Second, the Commission should recognize that, all things being equal, increasing the number of ETCs in a service area will increase the cost of the various high cost funds supporting universal service – without necessarily improving the quantity or quality of service provided to end users. All ETC applicants, therefore, should be required to provide evidence that they have met public interest guidelines in both non-rural and rural areas. These guidelines should include the minimum eligibility requirements called for by the Telecommunications Act, a demonstration that the ETC applicant has adequate financial resources, annual ETC certifications regarding how any universal service support funds will be used, and an assessment of how a new ETC designation will affect the universal service fund from which that applicant will draw. Third, a competitive ETC should be required to include entire incumbent LEC wire centers in its designated service area. The FCC reached the same conclusion, holding that “...requiring a competitive ETC to serve an entire wire center will make it less likely that the competitor will relinquish its ETC designation at a later date and will best address cream-skimming concerns in an administratively feasible manner.”<sup>2</sup>

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<sup>2</sup> ETC Order, at ¶ 77; 47CFR54.202(c) Public Interest Standard. Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest. In doing so, the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall also conduct a cream-skimming analysis that compares the population density of each wire center in which the eligible telecommunications carrier applicant seeks designation against that

## **II. FCC ELIGIBILITY REQUIREMENTS SHOULD NOT APPLY TO INCUMBENT**

### **LECs**

The FCC has adopted additional eligibility requirements for ETCs that include: 1) providing a five-year plan that demonstrates how high-cost universal service support will be used to improve coverage, service quality, or capacity in every wire center for which it seeks designation and expects to receive universal service support; 2) demonstrating its ability to remain functional in emergency situations; 3) demonstrating that it will satisfy consumer protection and service quality standards; 4) offering local usage plans comparable to those offered by the incumbent LEC in areas for which it seeks designation; and 5) acknowledging that it may be required to provide equal access if all other ETCs in the service area relinquish their designation pursuant to 47 U.S.C. § 214(e)(4). *ETC Order* at 2. Although the principles of competitive and technological neutrality underlying these requirements are important, they should not be applied blindly to all ETCs in a state like South Carolina, where their application to incumbent LECs like Verizon would only generate wasteful and duplicative regulation.

First, because Verizon is already subject to detailed financial reporting requirements, an additional requirement to provide a “five-year plan” showing what it would do with universal service funds would be redundant and unnecessary. Second, the FCC’s requirement for an ETC to “demonstrate its ability to remain functional in emergency situations” is unnecessary for an incumbent LEC with Carrier of Last Resort (“COLR”) responsibilities that, like Verizon, has repeatedly demonstrated its commitment to maintain service in the face of weather and other emergencies. Third, the FCC’s new requirement for an ETC to “demonstrate its commitment to

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of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation. In its cream-skimming analysis, the Commission shall consider other factors, such as disaggregation of support pursuant to Sec. 54.315 by the incumbent local exchange carrier.

meeting consumer protection and service quality standards” is redundant with existing Commission rules and regulations and the Code of Laws applicable to incumbent LECs in South Carolina.<sup>3</sup> Therefore, there is no need for the Commission to adopt this new FCC standard. Fourth, the FCC’s requirement that an ETC “demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation” makes no sense when the ETC is also the incumbent LEC, like Verizon. Finally, the FCC requirement for ETC applicants to acknowledge that the FCC may require equal access in the event that no other ETC is providing equal access within the same service area is also superfluous for an incumbent LEC, such as Verizon, because it is already subject to equal access requirements. However, if a non-incumbent ETC serves an area where equal access is not available, it should be ordered to provide it.

### **III. FCC ANNUAL CERTIFICATION AND REPORTING REQUIREMENTS SHOULD NOT APPLY TO INCUMBENT LECs**

The FCC has created annual reporting requirements for ETCs including: 1) progress updates on its five-year service quality improvement plan; 2) detailed information on network outages caused by emergencies; and 3) a count of unfulfilled customer requests for service and number of complaints per 1,000 handsets or lines. *ETC Order* at 3.

These requirements should not apply to an incumbent LEC, such as Verizon, for the same reasons that the underlying requirements should not apply, as discussed above. No one could seriously claim that this Commission’s Staff would be unaware if an incumbent LEC such as Verizon were having difficulty providing the supported services on demand throughout their serving areas. The FCC’s annual recertification process was plainly developed with wireless or

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<sup>3</sup> Chapter 103 Public Service Commission Rules and Regulations; South Carolina Code of Laws Titles 37 and 58.

other non-incumbent ETCs in mind as a proxy for the actual provision of universal service by incumbent wireline ETCs. Although the Commission might need to use the FCC's process for non-incumbent ETCs, it need not resort to any such proxy process for incumbent wireline ETCs, like Verizon.

#### **IV. THE COMMISSION SHOULD LIMIT THE NUMBER OF ETCs**

##### **DESIGNATED**

The Commission should adopt a presumption that there should be only one ETC in a rural study area. This limit would avoid excessive demands on the universal service fund and is clearly permitted by Section 214(e) of the Communications Act, which allows, but does not require, more than one ETC in a rural study area. In non-rural study areas, the Commission should adopt a presumptive limit of two ETCs. Again, this is expressly permitted by the Communications Act, which only requires that the Commission designate more than one ETC in a non-rural study area. 47 U.S.C. § 214(e)(2). These limits are also consistent with the 2005 Consolidated Appropriations Act, which precluded adoption of single or primary line limitations – not a limit on the number of carriers designated as ETCs. It is sound public policy to preclude the creation or maintenance of wholly duplicative networks founded on the possibility of USF support, at a time when USF support mechanisms are already strained. This is all the more important because of the alarming growth of the high cost fund. Total high cost disbursements have grown from approximately \$1.7 billion in 1999 to a projected \$4.1 billion annually by the end of 2006.<sup>4</sup> Without effective control, the demand for high cost funding will continue to rise.

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<sup>4</sup> Industry Analysis & Technology Div., Trends in Telephone Service, at Table 19.3 (Apr. 2005) ("Trends in Telephone Service") available at [http://www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/trend605.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend605.pdf); Federal Universal Support Mechanisms Fund Size Projections for the Third Quarter 2006, Appendix HC02 - High Cost Support Projected by State - 3Q 2006 (rel. May 2, 2006) available at <http://www.universalservice.org/about/governance/fcc-filings/2006/quarter3/default.aspx> projecting annualized high-cost support funding to be \$4.147 billion.

Any further growth in the fund may cause it to exceed the capacity of any carrier-based contributions system, thereby undermining the long-term sustainability of the universal service program as a whole.

## V. CONCLUSION

The FCC continues to look at federal universal service support mechanisms and this Commission is aware that this is an evolving process as stated in the Telecommunication Act. For all of the foregoing reasons, the Commission should not impose new, more burdensome ETC requirements upon incumbent LECs, such as Verizon, and the Commission should adopt an upper limit on the number of ETCs designated in rural and non-rural study areas.

Respectfully submitted on July 27, 2006.

By: 

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Counsel for Verizon South Inc.

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

**DOCKET NO. 2006-37-C**

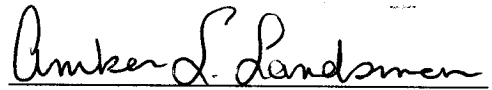
**IN RE:**

Petition of the ORS for a Rule-Making Proceeding )  
to Examine the Requirements and Standards )  
to Be Used by the Commission When Evaluating )  
Applications for ETC Status and When Making )  
Annual Certification of ETC Compliance to )  
the Federal Communications Commission )

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day, July 27, 2006, one (1) copy of Verizon's COMMENTS to the Petition of the ORS in the above referenced docket by placing a copy of same in the care and custody of the United States Postal Service, first class postage prepaid to the following Party of Record:

Ms. Nanette S. Edwards, Esquire  
Office of Regulatory Staff  
Post Office Box 11263  
Columbia, South Carolina 29211

  
Amber L. Landsman

July 27<sup>th</sup>, 2006  
Columbia, South Carolina